

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

IN RE:

CHAPTER 13

DAVID BYRON & HOLLIE DEAN PIERCE

CASE NO. 07-11839 NLJ

Debtor(s).

MOTION TO DISMISS FOR FAILURE TO MAKE REGULAR PAYMENTS
AND BRIEF IN SUPPORT THEREOF

COMES NOW, JOHN HARDEMAN, CHAPTER 13 TRUSTEE IN THE ABOVE-STYLED BANKRUPTCY PROCEEDING (THE "TRUSTEE"), AND, PURSUANT TO SECTION 1307(C) OF TITLE 11, UNITED STATES CODE (THE "BANKRUPTCY CODE"), MOVES THIS COURT TO ENTER ITS ORDER DISMISSING THIS BANKRUPTCY CASE. IN SUPPORT OF THIS MOTION, THE TRUSTEE RESPECTFULLY REPRESENTS TO THE COURT AS FOLLOWS:

1) ON Thu May 31, 2007, THE DEBTORS COMMENCED THESE BANKRUPTCY PROCEEDINGS WITH THE FILING OF THEIR VOLUNTARY PETITION FOR RELIEF UNDER CHAPTER 13 OF THE BANKRUPTCY CODE.

2) ON Thu Aug 23, 2007, THE COURT ENTERED ITS ORDER CONFIRMING THE DEBTOR(S)' CHAPTER 13 PLAN (THE "PLAN").

3) PURSUANT TO THE TERMS OF THE PLAN, THE DEBTOR(S) WERE TO MAKE MONTHLY PAYMENTS IN THE AMOUNT OF \$ 4,068.00 (THE "MONTHLY" PAYMENTS) TO THE TRUSTEE.

4) THE DEBTOR(S) HAVE FAILED TO MAKE THE MONTHLY PAYMENTS REQUIRED BY THE PLAN AND ARE IN ARREARS IN THE AMOUNT OF \$ 8,158.31 AS OF 12/30/2010.

5) SECTION 1307(C)(6) PROVIDES THAT
(C) ...THE COURT MAY CONVERT A CASE UNDER THIS CHAPTER TO A CASE UNDER CHAPTER 7 OF THIS TITLE, OR MAY DISMISS A CASE UNDER THIS CHAPTER, WHICHEVER IS IN THE BEST INTEREST OF CREDITORS AND THE ESTATE, FOR CAUSE, INCLUDING --

(6) MATERIAL DEFAULT BY THE DEBTOR WITH RESPECT TO A TERM OF A CONFIRMED PLAN.

6) THE DEBTORS' FAILURE TO MAKE REGULAR MONTHLY PAYMENTS CONSTITUTES A MATERIAL DEFAULT.

WHEREAS, JOHN HARDEMAN, TRUSTEE HEREIN, RESPECTFULLY REQUESTS THAT THIS COURT ENTER ITS ORDER DISMISSING THESE BANKRUPTCY PROCEEDINGS FOR THE REASONS SET FORTH HEREIN.

/s/JOHN HARDEMAN

JOHN HARDEMAN
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CERTIFICATE OF MAILING

THIS IS TO CERTIFY THAT ON 01/13/2010 A TRUE AND CORRECT COPY OF THE FOREGOING DOCUMENT WAS MAILED BY FIRST-CLASS MAIL, POSTAGE PREPAID TO ALL PARTIES LISTED ON THE ATTACHED ADDRESS LIST.

/s/JOHN HARDEMAN

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